

MAY 15 2008

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MARIA LOURDES GOMEZ  
PALACIOS; et al.,

Petitioners,

v.

MICHAEL B. MUKASEY, Attorney  
General,

Respondent.

No. 07-71805

Agency Nos. A95-303-148  
A95-303-149

MEMORANDUM\*

On Petition for Review of an Order of the  
Board of Immigration Appeals

Submitted May 12, 2008\*\*

Before: KOZINSKI, Chief Judge, THOMAS and CALLAHAN, Circuit Judges.

This is a petition for review of the Board of Immigration Appeals' ("BIA")  
order dismissing petitioners' appeal from an immigration judge's denial of

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\* This disposition is not appropriate for publication and is not precedent  
except as provided by 9th Cir. R. 36-3.

\*\* The panel unanimously finds this case suitable for decision without  
oral argument. See Fed. R. App. P. 34(a)(2).

cancellation of removal.

A review of the administrative record demonstrates that there is substantial evidence to support the BIA's decision that petitioners failed to establish continuous physical presence in the United States for a period of not less than ten years as required for cancellation of removal. *See* 8 U.S.C. § 1229b(b)(1)(A); *Lopez-Alvarado v. Ashcroft*, 381 F.3d 847, 850-51 (9th Cir. 2004).

A further review of the record reflects that the constitutional arguments raised by the petitioners in their opening brief are not colorable. Specifically, this court has previously held that the physical presence requirement does not violate due process. *See Padilla-Padilla v. Gonzalez*, 463 F.3d 972, 979 (9th Cir. 2006).

In addition, petitioners are unable to demonstrate that the immigration judge's denial of their request for a continuance violated due process, because the denial did not prejudice petitioners' cancellation application. *See Sarvia-Quintanilla v. INS*, 767 F.2d 1387, 1394-95 (9th Cir. 1985).

Accordingly, respondent's motion for summary disposition is granted because the questions raised by this petition for review are so insubstantial as not to require further argument. *See United States v. Hooton*, 693 F.2d 857, 858 (9th Cir. 1982) (per curiam).

All other pending motions are denied as moot. The temporary stay of

removal and voluntary departure confirmed by Ninth Circuit General Order 6.4(c) and *Desta v. Ashcroft*, 365 F.3d 741 (9th Cir. 2004), shall continue in effect until issuance of the mandate.

**PETITION FOR REVIEW DENIED.**